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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|----------------------|---------------------|------------------|
| 10/681,628 | 10/08/2003 | Ronald C. Gagne | IMA-0021-KWIKHANDS | 6110 |
| 42416 | 7590 | 02/10/2005 | EXAMINER | |
| EDWARD L. KELLEY DBA INVENTION MANAGEMENT ASSOC. 4 MILITIA DRIVE LEXINGTON, MA 02421 | | | ARYANPOUR, MITRA | |
| | | | ART UNIT | PAPER NUMBER |
| | | | 3711 | |

DATE MAILED: 02/10/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

| Office Action Summary | Application No. | Applicant(s) | |
|------------------------------|------------------------|---------------------|--|
| | 10/681,628 | GAGNE, RONALD C. | |
| | Examiner | Art Unit | |
| | Mitra Aryanpour | 3711 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 11 November 2004.

2a) This action is **FINAL**. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 1-21 is/are pending in the application.
4a) Of the above claim(s) 1-10, 17 and 18 is/are withdrawn from consideration.
5) Claim(s) _____ is/are allowed.
6) Claim(s) 11-16 and 19-21 is/are rejected.
7) Claim(s) _____ is/are objected to.
8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on 08 October 2003 is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) All b) Some * c) None of:
1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. _____.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) Notice of References Cited (PTO-892)
2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 08 October 2003.

4) Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ .
5) Notice of Informal Patent Application (PTO-152)
6) Other: ____ .

DETAILED ACTION

Election/Restrictions

1. Claims 1-10, 17-18 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 11 November 2004.

Drawings

2. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference character “200” has been used to designate both stick and shaft. Additionally, the drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: edge 85. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The replacement sheet(s) should be labeled “Replacement Sheet” in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office Action. The objection to the drawings will not be held in abeyance.

Specification

3. The disclosure is objected to because of the following informalities: on page 11, line 3, “an” should be changed to --on-- before “oppose” and “side” should be changed to --sides-- after “oppose”; on page 11, line 5, “holds” should be changed to --hold-- after “80”; on page 11, line

9, “bend” should be changed to --bent-- after “back”; on page 13, line 1, “it” should be changed to --its-- before “long”; on page 13, line 3, “produce” should be changed to --produces-- after “65 and”; on page 16, line 12, --than-- should be inserted after “larger”; on page 17, line 11, “[“ should be deleted before “practice”; on page 19, line 10, “have” should be deleted before “be prevented”; on page 20, line 12, “left” should be changed to --lifts--; on page 25, line 7, “wrists” should be changed to --wrists--. Appropriate correction is required for the above objections.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 11-13 are rejected under 35 U.S.C. 102(b) as being anticipated by Budolfson (5,192,259).

Regarding claim 11, Budolfson discloses a hockey stick handling training device for use with a hockey stick (16) comprising: a spherical element (ball 22) having a weight to hockey puck ratio of greater than 1.3 (the weighs approximately 2.5 pounds to 4.0 pounds; the ratio of the aforementioned range being greater than 1.3) and a diameter in the range of 2.5” to 3.0” (the diameter being greater than 38 mm (1.5 inches)); and, a practice surface (flat hard planar surface 12) for stick handling the spherical element (ball 22) between two positions (first position A and second position B) on the surface, wherein said surface provides a higher resistance to sliding of the spherical element than to rolling of the spherical element (the examples given by Budolfson for the flat hard planar surface 12 are by way example concrete, hard wood floor, asphalt etc.

these surface have a rough surface which makes it much easier to roll the object, since when sliding, the rough surface produces obstacles for the object, hence creating resistance.

Regarding claim 12, Budolfson does not explicitly teach the bounce height of the spherical ball. However, the ball will inherently have a bounce height of less than 5 inches, since Budolfson's ball is made of steel.

Regarding claim 13, Budolfson shows the spherical element (ball 20) comprises a solid steel ball (see column 2, lines 35-40).

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Budolfson (5,192,259) in view of Mason (6,059,673).

Regarding claim 14, Budolfson shows the practice surface comprises a substantially smooth and flat surface (see column 1, lines 39-47) formed by a substantially uniformly thick layer of one concrete, hardwood, asphalt or other suitable surfaces. Budolfson does not expressly disclose the system can be adapted for use on other types of flat surface such as polyester, urethane foam, polyester with a vinyl facing, neoprene, ethylene vinyl acetone, silicone and polyethylene. Mason shows a goalie training system wherein the playing surface is comprised of synthetic ice. The use of synthetic ice material allows conventional ice skates to be utilized. In

view of Mason it would have been obvious to also use Budolfson's system on synthetic ice the motivation being in order to allow conventional ice skates to be used.

8. Claims 15, 16, 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Budolfson (5,192,259).

Regarding claims 15 and 16, Budolfson does not expressly disclose providing a plurality of spherical elements each having a different weight to hockey puck ratio and a different diameter. Budolfson provides an approximate weight range for the balls (2.5 pounds to 4.0 pounds) and a diameter range (2.5" to 3"). Therefore, it would have been obvious to have a plurality of spherical elements having different weight and diameter readily available so that the user would have optimum beneficial strengthening experience.

Regarding claim 19, Budolfson shows a hockey stick handling practice kit comprising solid steel balls having weights ranging from 40 ounces up to 64 ounces and having diameters ranging from 2.5 inches) to 3 inches for stick handling with a hockey stick on a practice surface, said practice surface being formed of a wooden, asphalt or concrete planar surface. It is well known that concrete has a low coefficient of friction, commonly about 0.4. Budolfson shows that it is desirable for training purposes to have ball ranging in weight and size, but does not expressly disclose providing a plurality of spherical elements each having a different weight to hockey puck ratio and a different diameter. Budolfson provides an approximate weight range for the balls (2.5 pounds to 4.0 pounds) and a diameter range (2.5" to 3"). Therefore, it would have been obvious to have a plurality of spherical elements having different weight and diameter readily available so that the user would have optimum beneficial strengthening experience.

9. Claim 20 is rejected under 35 U.S.C. 103(a) as being unpatentable over Budolfson (5,192,259) in view of Nudo (6,846,252).

Regarding claim 20, Budolfson shows the inventive device can be played on a flat hard planar surface such as the garage or driveway. Budolfson does not provide a specific size or material the practice surface should be formed of. Nudo provide a practice surface that is positioned on a surface such as the driveway having a length in the range of 4 to 8 feet. Budolfson does not disclose the width of the practice surface, but as best seen in figures 1 and 5 the width is about half the length therefore falls within the claimed range; and wherein the mat comprises a layer of one of polyethylene (column 2, lines 21-27); the mat having a layer thickness in the range greater than 0.5 - 2.0 inches (such can best be seen in figure 7; also see column 2, lines 50-53). In view of Nudo it would have been obvious to provide a mat for the inventive device of Budolfson, the motivation being to simulate actual playing environment.

10. Claim 21 is rejected under 35 U.S.C. 103(a) as being unpatentable over Budolfson (5,192,259) in view of Chiarelli (3,704,891).

Regarding claim 21, as indicated above Budolfson shows a training system having balls ranging in weight and size, but does not limit the system to a specific number of balls. Budolfson does not disclose balls which weigh less than a regular hockey puck. Chiarelli shows a training puck that has a weight that can range 2 to 3 times more than a regular puck (5.5 to 6 ounces) for senior or adult players and somewhat lighter puck for younger players. In view of Chiarelli it would have been obvious to also provide light ball/pucks for the training system of Budolfson the motivation being to cater to a larger group of users. with regards to the diameter of the ball being substantially 1.6 inches, Budolfson shows the ball diameter is about 2.5 to 3.0 inches, but

does not disclose expressly a diameter of 1.6 inches. At the time the invention was made, it would have been an obvious matter of design choice to a person of ordinary skill in the art to provide a ball with 1.6" diameter, because Applicant has not disclosed that providing a ball with 1.6" diameter, provides an advantage, is used for a particular purpose, or solves a stated problem. One of ordinary skill in the art, furthermore, would have expected Applicant's invention to perform equally well with either the ball diameter taught by Budolfson or the claimed ball diameter because both ball diameter perform the same function of providing a smaller than regulation practice ball, in order to optimize training. Therefore, it would have been an obvious matter of design choice to modify Budolfson to obtain the invention as specified in claim 21.

Conclusion

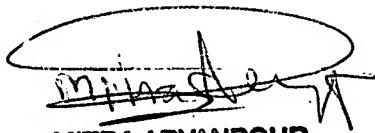
11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mitra Aryanpour whose telephone number is 571-272-4405. The examiner can normally be reached on Monday - Friday 8:00 to 4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Greg Vidovich can be reached on 571-272-4415. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

MA
03 February 2005



MITRA ARYANPOUR
PRIMARY EXAMINER